

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DANIEL B. GRAVES,

Plaintiff,

- against -

DEUTSCHE BANK SECURITIES INC.,

Defendant.
----- X

:
07 Civ. 5471 (BSJ)
:

: **AFFIRMATION OF CLIFF**
: **FONSTEIN IN SUPPORT OF**
: **DEFENDANT'S OPPOSITION TO**
: **PLAINTIFF'S MOTION FOR**
: **PARTIAL SUMMARY JUDGMENT**
: **AND STATEMENT OF MATERIAL**
: **FACTS TO WHICH THERE IS NO**
: **GENUINE ISSUE TO BE TRIED**

CLIFF FONSTEIN, an attorney at law duly admitted to practice before the Courts of the State of New York, hereby affirms the following under penalty of perjury:

1. I am a member of the bar of this Court and a member of Seyfarth Shaw LLP, counsel for Defendant Deutsche Bank Securities Inc. ("DBSI"). As such, I am familiar with the facts and circumstances of the instant action.
2. At no time did Plaintiff seek to compel the production of the documents sought by Plaintiff's Document Request Nos. 11, 12, 13, 47(c), or 47(i).
3. Following a fact-finding conference on May 28, 2009 regarding alleged falsifications and misrepresentations made by DBSI to the Commission during the course of the Commission's initial investigation of Graves's charge, and after reviewing more than 600 pages of written submissions by both parties, the EEOC concluded that it could not determine that DBSI had engaged in any misrepresentations.
4. A true and correct copy of excerpts of the Answer in this action filed on April 23, 2010, is attached hereto as Exhibit A.

5. True and correct copies of the cited pages of Plaintiff's deposition transcript are attached hereto as Exhibit B.
6. True and correct copies of the cited pages of the deposition transcript of Jeffrey Amling are attached hereto as Exhibit C.
7. A true and correct copy of a report from Deutsche Bank's (the "Bank") Client Management system ("CMS") that lists the Senior Investment Banker for specific clients and the transfer of clients between bankers during the relevant period of 2002 and 2003 is attached hereto as Exhibit D.
8. A true and correct copy of the Bank's Media 04 Transfers chart showing the dates of birth of members of the Bank's Media group is attached hereto as Exhibit E.
9. A true and correct copy of a December 2, 2003 email from Mr. Graves to Mr. Amling is attached hereto as Exhibit F.
10. A true and correct copy of Mr. Graves's December 28, 2004 Reply Affidavit to the EEOC is attached hereto as Exhibit G.
11. A true and correct copy of excerpts of a document entitled "Business Planning & Development, Media Summary for all Americas, As of September 30, 2003" is attached hereto as Exhibit H.
12. A true and correct copy of a chart entitled "Americas Tier1A/1 July 2, 2003" is attached hereto as Exhibit I.
13. A true and correct copy of a document entitled "Media Group / 2004 Outlook and individual banker highlights / October 20, 2003" is attached hereto as Exhibit J.

14. A true and correct copy of a chart of DBSI's active Media group employees as of May 2004, including each individual's age is attached hereto as Exhibit K.

15. A true and correct copy of excerpts of the Second Amended Complaint in this action, filed on April 3, 2009, is attached hereto as Exhibit L.

16. A true and correct copy of the letter portion of DBSI's Position Statement to the EEOC, dated November 5, 2004, and exhibits D and F to the Position Statement, are attached hereto as Exhibit M.

17. A true and correct copy of excerpts from DBSI's Memorandum of Law in Support of its Objections to Magistrate Judge Kevin Nathaniel Fox's Memorandum and Order Dated March 20, 2009 is attached hereto as Exhibit N.

18. True and correct copies of the cited pages of the deposition transcript of Jacques Brand are attached hereto as Exhibit O.

19. A true and correct copy of Plaintiff's July 22, 2004 EEOC Charge is attached hereto as Exhibit P.

20. A true and correct copy of the EEOC's June 15, 2010 Determination Letter is attached hereto as Exhibit Q.

Dated: New York, New York
July 9, 2012

SEYFARTH SHAW LLP

By: /s/ Cliff Fonstein
Cliff Fonstein
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New York, New York 10018
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Attorneys for Defendant Deutsche Bank Securities Inc.

Certificate of Service

I certify that I have, this 9th day of July, 2012, served a true and correct copy of the Affirmation of Cliff Fonstein in Support of DBSI's Opposition to Plaintiff's Motion for Partial Summary Judgment and Statement of Material Facts to Which There is No Genuine Issue to be Tried on counsel of record for plaintiff, as shown below, by service through the Court's ECF system:

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Dated: New York, New York
July 9, 2012

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